Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Petition for Declaratory Ruling to Clarify	)	WT Docket No. 08-165
Provisions of Section 332(c)(7)(B) to Ensure Timely	)	DA O8-1913
Siting Review and to Preempt Under Section 253	)	
State and Local Ordinances that Classify All	)	
Wireless Proposals as Requiring a Variance	)	

COMMENTS OF VERIZON WIRELESS

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Dated: September 29, 2008

TABLE OF CONTENTS

SUMMARY

Verizon Wireless supports CTIA's request asking the Commission to declare time periods within which state or local zoning authorities must render a final decision on wireless facilities requests under Section 332(c)(7)(B) of the Act; to clarify that Section 332(c)(7)(B)(i) of the Act bars zoning decisions that have the effect of prohibiting an additional entrant from offering service in a given area; and to preempt, under Section 253 of the Act, local zoning ordinances and state laws that treat every wireless siting application as requiring a variance.

Verizon Wireless has experienced significant delays in many areas obtaining approval of wireless facilities siting zoning applications. These delays are getting worse. For example, in the Washington D.C. metropolitan area, average times to gain approval for new towers have increased from 6- 9 months in 2003 to more than a year in 2008. Collocation approval time frames in the same region have increased from 15- 30 days in 2003 to more than 90 days at present. In the San Diego area, time frames for new towers have increased from 6 months to more than 2 years.

Data Verizon Wireless gathered recently indicates that of the over 400 collocation requests reported as pending before local zoning authorities, over 30 percent of the requests had been pending for more than 6 months. Of the over 350 non-collocation requests reported as pending, more than half of those applications had been pending for more than 6 months, and nearly 100 of those applications had been pending for more than one year.

These data clearly indicate that the zoning approval process often takes extraordinarily long periods of time to complete. Absent a clear definition of when a zoning authority has failed to act, carriers do not know when it is appropriate to seek judicial relief and are more likely to wait to commence any court action until the zoning process has been completed. CTIA's request

to establish 45- and 75-day benchmarks for when a zoning authority has failed to act on collocation and non-collocation requests respectively would help remedy the present situation by establishing when the zoning authority has failed to act and making clear that if a final decision has not been rendered within that time period, a carrier may commence court action.

The Commission should declare that when a zoning authority fails to render a final decision within the benchmark timeframes set forth above, the application will be deemed granted. At minimum, the Commission should establish a presumption that when a zoning authority cannot explain a failure to act within these time frames, a reviewing court should find a violation of Section 332(c)(7)(B)(ii) and issue an injunction granting the underlying application. The requested ruling is entirely consistent with the time limits imposed by Commission on local franchising authorities that were recently upheld in *Alliance for Community Media v. FCC*, and with Sections 332(c)(7)(B) and 201(b) of the Act.

Verizon Wireless also supports CTIA's request for a clarification that a zoning authority may not defend itself in a suit brought under Section 332(c)(7)(B)(i)(II) by arguing that one or more other service providers already serve the area in question. The requested clarification would help resolve differing interpretations of this provision in the Courts of Appeal and would be consistent with the language in Section 332(c)(7)(B)(i)(II) and with Commission pro-competition policies.

Finally, the FCC should grant CTIA's request for a ruling that any ordinance that automatically requires a wireless carrier to seek a variance is preempted as an impermissible barrier to entry under Section 253(a) of the Act. Verizon Wireless has seen a dramatic increase in zoning ordinances that are designed to make wireless facilities siting more difficult. The effect of many of these ordinances is to prohibit wireless facilities siting in a particular area. The

requested declaratory ruling would place some bounds on the types of zoning ordinance provisions state and local authorities can adopt and help FCC licensees get zoning approval more quickly.

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COMMENTS OF VERIZON WIRELESS

Verizon Wireless hereby submits comments in support of the above-referenced Petition for Declaratory Ruling ("Petition") filed by CTIA – the Wireless Association. In the Petition, CTIA asks the Commission to declare time periods within which state or local zoning authorities must take action on wireless facilities requests under Section 332(c)(7)(B) of the Act; to clarify that Section 332(c)(7)(B)(i) of the Act bars zoning decisions that have the effect of prohibiting an additional entrant from offering service in a given area; and to preempt, under Section 253 of the Act, local zoning ordinances and state laws that treat every wireless siting application as requiring a variance.

As discussed below, Verizon Wireless is facing ever-increasing difficulties and delays getting proposed wireless facilities approved by state and local zoning authorities. The company's inability to get wireless facilities approved by zoning authorities in a reasonable time or without having to meet costly and burdensome zoning requirements harms the public interest by delaying or denying the benefits of wireless service to customers and public safety interests and by increasing the cost of wireless services. For

these reasons, Verizon Wireless supports each of the requests made by CTIA in the Petition.

I. BACKGROUND

Commissioner Adelstein recently remarked,

> The future success of our economy will demand that we promote the expansion of communications infrastructure, as a start. The construction of communications towers is necessary to achieve the rapid deployment so many people want. Every day, Americans are expecting wider availability of advanced communications services. Towers will not only form the backbone of the transition to digital television, they are used around the clock by public safety and are a critical component of our nation's homeland security efforts. We need to take a close look at CTIA's petition that would set a shot clock on the amount of time local authorities spend reviewing tower applications. Congress intended that the Commission act to prevent unreasonable delays so we need to consider all potential solutions to such delays.[1]

The CTIA Petition asks the FCC to use the authority bestowed upon the Commission by Congress to eliminate unnecessary delays in the communications facilities siting process. The 1996 Amendments to the Communication Act were designed to reduce the impediments imposed by local governments on the installation of facilities for wireless communications. Section 332(c)(7)(B) of the Act imposes limitations on the authority of state and local authorities to regulate the location, construction and modification of wireless facilities.[2] Chief among these provisions are:

> Section 332(c)(7)(B)(i)(II), which states that "The regulation of the placement, construction, and modification of personal wireless service facilities by any State or local government or instrumentality thereof shall

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[1] Remarks of Jonathan S. Adelstein, Commissioner, Federal Communications Commission "A View on Today's Most Pressing Wireless Issues," delivered at the Fifth Annual Conference on Spectrum Management Law Seminars International, Arlington, VA, September 18, 2008.

[2] Petition at 5.

not prohibit or have the effect of prohibiting the provision of personal wireless services."

Section 332(c)(7)(B)(ii), which provides that "A State or local government or instrumentality thereof shall act on any request for authorization to place, construct, or modify personal wireless service facilities within a reasonable period of time after the request is duly filed with such government or instrumentality, taking into account the nature and scope of such request."

Section 332(c)(7)(B)(v), which provides that "Any person adversely affected by any final action or failure to act by a State or local government or any instrumentality thereof that is inconsistent with this subparagraph may, within 30 days after such action or failure to act, commence an action in any court of competent jurisdiction. The court shall hear and decide such action on an expedited basis. . ."

Ambiguities in these provisions of the Act, however, have allowed some state and local zoning authorities to impose substantial impediments to wireless facilities siting. Notably, the Act does not define when a "failure to act" occurs or what constitutes a "failure to act." As a result, some zoning authorities regularly fail to take action on wireless facilities siting requests within a reasonable period of time and many zoning authorities take well over a year to act. In addition, some zoning authorities have denied a wireless service provider's request because another service provider already serves the area. Still other localities have adopted zoning ordinances that require wireless facilities siting applicants to seek a zoning variance before they can obtain zoning approval for a new site or a transmitter collocated on an existing structure.

To remedy these problems, CTIA requests a declaratory ruling establishing

(1) That a failure to render a final decision within 45 days of filing a wireless siting application proposing to collocate on an existing facility constitutes a failure to act for purposes of Section 332(c)(7)(B)(v);

(2) That a failure to render a final decision on any other, non-collocation wireless siting applications within 75 days constitutes a failure to act for purposes of Section 332(c)(7)(B)(v);

(3) That when a zoning authority has failed to render a final decision within the benchmark timeframes set forth above, the application will be deemed granted, or, in the alternative, establish a presumption that when a zoning authority cannot explain a failure to act within these time frames, a reviewing court should find a violation of Section 332(c)(7)(B)(ii) and issue an injunction granting the underlying application;

(4) That Section 332(c)(7)(B)(i)(II) bars zoning decisions that have the effect of prohibiting a particular provider from offering service in a given geographic area; and

(5) That any state or local zoning ordinance that automatically requires a wireless carrier to seek a variance, regardless of the type and location of the proposal, is preempted as an impermissible barrier to entry under Section 253(a) of the Act.

II. DISCUSSION

A. The Commission Should Declare that a Failure to Render a Final Decision on an Application Within 45 Days for Applications Proposing Collocations and 75 Days for all other Applications Constitutes a Failure To Act Pursuant to Section 332(c)(7)(B)(v) of the Act.

In the Petition, CTIA asks the Commission to eliminate the ambiguity in Section 332(c)(7)(B)(v) of the Act, by declaring that a failure to act has occurred if a zoning authority fails to render a final decision within 45 days on a wireless facilities siting application proposing to collocate on an existing structure or within 75 days for all other wireless facilities siting applications. Verizon Wireless supports CTIA's request.

CTIA argues that the timely deployment of wireless facilities is essential to achieving the public interest goals established in the Communications Act and by the FCC. In particular, CTIA argues that timely deployment of wireless facilities is necessary for broadband deployment, for meeting spectrum build-out requirements, particularly the aggressive requirements that apply to 700 MHz licensees, and for

improved E911 capabilities.[3] CTIA provides a litany of examples and member carrier data demonstrating egregious delays in obtaining state and local zoning approval of wireless facilities sites. Indeed, the CTIA data show that almost 25 percent of the sites its members report as currently pending before local zoning authorities have been pending for more than one year. Almost half of those sites are collocation requests, which are the least intrusive type of request.[4] CTIA's data also show that the time period associated with obtaining final action is getting longer.[5]

CTIA also demonstrates that the benchmarks for establishing a failure to act requested in the Petition are reasonable. For collocation requests, CTIA reports that each of its members submitting data has received some zoning approvals within 2 weeks, with several obtaining approval in one day.[6] For non-collocation applications, each of CTIA's members submitting data reported receiving some zoning approvals on sites within 30 days, with many approvals taking less than one week.[7]

CTIA argues that its request is consistent with the language in the Communications Act and with a recent court decision. Section 201(b) of the Act vests the FCC with rulemaking authority to carry out the provisions of the Act.[8] More

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3 *Id.* at 8-13.

4 *Id.* at 14-15.

5 *Id.* at 15-16.

6 *Id.* at 24-25.

7 *Id.* at 25-26.

8 *Id.* at 20-21, *citing AT&T v. Iowa Utilities Board*, 525 U.S. 366, 378 (1999).

recently, in *Alliance for Community Media v. FCC,*[9] the United States Court of Appeals for the Sixth Circuit affirmed the Commission's March 2007 order imposing time limits on local video franchising authorities deliberations based on language in Section 621(a)(1) of the Act, which prohibits local franchising authorities from "unreasonably refus[ing] to award an additional competitive franchise."[10] The time limits and statutory language at issue in that appeal are analogous to the time limits CTIA is requesting in the Petition and the statutory language applicable to wireless facilities siting.

Verizon Wireless supports CTIA's request for a declaratory ruling defining when a failure to act has occurred. Verizon Wireless has experienced significant delays in many areas obtaining approval of wireless facilities siting zoning applications. These delays are getting worse. For example, in the Washington D.C. metropolitan area, average times to gain approval for new towers have increased from 6- 9 months in 2003 to more than a year in 2008. Collocation approval time frames in the same region have increased from 15- 30 days in 2003 to more than 90 days at present. In the San Diego area, time frames for new towers have increased from 6 months to more than 2 years.

Data Verizon Wireless gathered recently indicates that of the over 400 collocation requests reported as pending before local zoning authorities, over 30 percent of the requests had been pending for more than 6 months. Of the over 350 non-collocation requests reported as pending, more than half of those applications had been pending for more than 6 months, and nearly 100 of those applications had been pending for more than one year. Looking at applications approved within the last 5 years, in Northern New

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9 529 F.3d 763 (6th Cir. 2008).

10 47 U.S.C. § 621(a)(1).

Jersey, 45 of the 48 zoning applications processed took more than 6 months to approve, 19 of those took more than a year, and 7 took more than two years. Similarly, in Northern California, 27 of 30 applications took more than 6 months, with 12 applications taking more than a year, and 6 taking more than two years to be approved. In Southern California, 25 applications took more than two years to be approved, with 52 taking more than a year, and 93 taking more than 6 months.

These data clearly indicate that the zoning approval process often takes extraordinarily long periods of time to complete. The delays associated with the zoning approval process impose additional costs on carriers that are ultimately reflected in customer rates, and deny the benefits of wireless service to consumers and public safety interests. Absent a clear definition of when a zoning authority has failed to act, carriers do not know when it is appropriate to seek judicial relief and are more likely to wait to commence any court action until the zoning process has been completed. CTIA's request to establish 45- and 75-day benchmarks for when a zoning authority has failed to act on collocation and non-collocation requests respectively would help remedy the present situation by establishing when the zoning authority has failed to act and making clear that if a final decision has not been rendered within that time period, a carrier may commence court action.

The benchmarks requested by CTIA are even more necessary in light of a recent decision by the United States Court of Appeals for the 9th Circuit holding that "a plaintiff suing a municipality under Section 253(a), arguing that a state or local requirement may prohibit or have the effect of prohibiting telecommunications service must show actual or

effective prohibition, rather than the mere possibility of prohibition."[11] As discussed *infra,* this decision, where it is applied, will require licensees to challenge zoning ordinances on a case-by-case basis. As a result, Commission action clarifying when a carrier may commence such action is vital.

The benchmarks requested by CTIA are reasonable. With respect to collocation requests, Verizon Wireless has received many approvals in less than a week and many more in less than one month. One entire region reported that the average approval time for a collocation request was 21 days. Given these data and the fact that collocating an antenna on an existing structure should require minimal zoning review, CTIA's request for a benchmark of 45 days to render a final decision on collocation requests is entirely reasonable.

With respect to non-collocation reviews, Verizon Wireless has received zoning approvals for sites in as little as two days, and almost every region reports having received zoning approval on several sites in less than one month. In one region, looking at sites approved in the last five years, 71 of the 90 sites approved by zoning authorities were approved in less than 75 days. In another region, 35 of the 45 sites submitted for approval were approved in less than 75 days. In yet another region, 78 of the 139 sites submitted for zoning approval were approved in less than 75 days. These data demonstrate that the 75-day benchmark requested in the Petition is currently being met by many zoning authorities and is reasonable.

For these reasons, the Commission should declare that a failure to act has occurred if a zoning authority fails to render a final decision within 45 days on a wireless

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[11] Sprint Telephony PCS v. County of San Diego, Case Nos. 05-56076 and 05-56435, (9th Cir. 2008) Slip. Op. at 12711. *See* discussion *infra* at Section II.D.

facilities siting application proposing to collocate on an existing structure and 75 days for all other wireless facilities siting applications.

B. The Commission Should Declare that Zoning Applications Not Acted Upon within the Benchmark Time Frames Are Deemed Granted, or at Minimum, Adopt a Presumption that A Reviewing Court Should Order the Zoning Authority to Grant the Siting Request.

By adopting the failure to act benchmarks discussed above, the Commission will resolve an ambiguity in the Act and make clear when an applicant may bring court action pursuant to Section 332(c)(7)(B)(v) when zoning authorities fail to take action. However, as CTIA notes, the Commission can and should take further action to prompt zoning authorities to act within the prescribed time frames and avoid litigation. Specifically, the Commission should declare that when a zoning authority fails to render a final decision within the benchmark timeframes set forth above, the application will be deemed granted. At minimum, the Commission should establish a presumption that when a zoning authority cannot explain a failure to act within these time frames, a reviewing court should find a violation of Section 332(c)(7)(B)(ii) and issue an injunction granting the underlying application.[12]

In support of this request, CTIA cites to a number of cases brought under Section 332(c)(7)(B)(v) finding that the appropriate remedy when a zoning authority fails to act is to grant an order issuing the relevant permits.[13] CTIA's request is also consistent with

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[12] Petition at 27.

[13] *Id.* at 28-29.

the *Alliance for Community Media* decision and authorities cited by the FCC in that appeal.[14]

Verizon Wireless supports CTIA's request for a declaratory ruling that when a zoning authority fails to render a final decision within the benchmark timeframes set forth above, the application will be deemed granted. Such a ruling would obviate the need for carriers to engage in costly and time-consuming litigation to gain approval for wireless facility sites when a zoning authority fails to act. It would also serve as a powerful enticement for zoning authorities to take action within the prescribed time frames. In the event that the Commission is unwilling to deem granted applications not acted upon within these time frames, it should establish a presumption that when a zoning authority cannot explain a failure to act within these time frames, a reviewing court should find a violation of Section 332(c)(7)(B)(ii) and issue an injunction granting the underlying application.

C. The Commission Should Clarify that a Zoning Decision Violates Section 332(c)(7)(B)(i) if It Prohibits the Applicant from Providing Wireless Service in a Given Area.

Citing to a split among Courts of Appeals in various circuits, CTIA requests that the FCC clarify that a zoning authority may not defend itself in a suit brought under Section 332(c)(7)(B)(i)(II) by arguing that one or more other service providers already

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[14] *Id.* at 29.

serve the area in question.[15] The requested clarification is consistent with the language in the Section 332(c)(7)(B)(i)(II), which states that zoning authorities "shall not prohibit or have the effect of prohibiting the provision of personal wireless *services,*" rather than proscribing actions that prohibit the provision of any wireless service.[16] CTIA contends that by using the plural "services," Congress clearly did not intend to allow zoning authorities to prohibit competing service providers from gaining zoning approval for wireless facilities in any area. CTIA also notes that interpreting this section to require only that only one provider be allowed to serve an area runs contrary to the language in Section 332(c)(7)(B)(i)(I), which prohibits zoning authorities from unreasonably discriminating among providers of functionally equivalent services.[17]

Verizon Wireless supports CTIA's request for clarification. Verizon Wireless is aware of at least 8 instances (3 in California and 5 in New Jersey) where applications were denied because another service provider already served the area, thus denying the public a choice of service providers in these areas. The clarification requested would help to settle the conflicting interpretation of the Act in the circuits and would further the Act's pro-competitive goals.

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15 *Id.* at 30-32. As CTIA notes, the 3rd and 4th Circuit Courts of Appeals have upheld zoning decisions denying carrier applications on grounds that another service provider already provides service in the area, while the 1st Circuit Court of Appeals has ruled that a provider is not precluded from obtaining relief under the Act where another providers serves the area in question. The 2nd and 9th Circuit Courts of Appeals have issued opinions stating that the Act is not clear on this issue. Petition at 31.

16 *Id.* at 32, *citing* 47 U.S.C. § 332(c)(7)(B)(i)(II) (emphasis added).

17 *Id. citing* 47 U.S.C. § 332(c)(7)(B)(i)(I).

D. The Commission Should Preempt Zoning Ordinances that Require a Variance for Wireless Siting Applications.

CTIA asks the Commission to declare that any ordinance that automatically requires a wireless carrier to seek a variance is preempted as an impermissible barrier to entry under Section 253(a) of the Act. Section 253(a) preempts any state or local statute or regulation that may prohibit or have the effect of prohibiting interstate or intrastate telecommunications service, including wireless service.[18] CTIA notes that a recent court opinion stated that:

> The following features of a local ordinance have caused courts to find preemption: (1) an onerous permit application process, (2) a franchise requirement, (3) penalties for failure to comply with ordinance requirements, (4) subjective aesthetic design requirements, and (5) regulations granting unfettered discretion to the zoning authority to deny permits.[19]

CTIA argues, further, that applicants seeking zoning variances generally face a much more onerous application process as well as mandatory public hearings. These procedures cause significant delays in getting applications approved.

Verizon Wireless supports CTIA's request for a declaration that zoning ordinances that effectively require applicants to seek a variance for every wireless facilities approval request are preempted under Section 253(a). Verizon Wireless has seen a plethora of zoning ordinances that are designed to make wireless facilities siting more difficult. The effect of many of these ordinances is to prohibit wireless facilities siting in a particular area. Examples of ordinance provisions that impede or prevent wireless tower siting approvals are: excessive set back requirements (up to 1000 feet and

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[18] *Id.* at 35-37; 47 U.S.C. § 253(a).

[19] *Id.* at 35, *quoting T-Mobile USA v. City of Anacortes, 2008 U.S. Dist LEXIS 37481, *8-9 (W.D. Wash. 2008).*

more) which increase the size of the parcel of land on which a tower can be located, unreasonable fall zone requirements (mandating that the tower be located a distance greater than the height of the tower from the property line to protect against the tower falling down), severe height limitations, coverage limitations, and mandatory review by a consultant (often the very consultant who assisted the locality in drafting the ordinance) with excessive fees for the consultant's services. Examples of ordinances with such provisions include:

- A County of Kent, Delaware ordinance that requires all towers located on parcels that are not church site, park sites, or government, school, utility or institutional sites, to be located on parcels where the tower will be 1000 feet from all property lines and 1,500 feet from any dwellings located on adjacent properties. Lots with these set back requirements are impossible to find in developed parts of the county, and the zoning authority does not have the ability to vary these requirements.

- A Hadley, Massachusetts ordinance requiring a variance if the tower is over 55 feet tall, closer than 2 miles to another telecommunications tower, or located less than 2 times the tower height from any property line, existing building, or public way. The Hadley zoning authority can deny an application if greater than 50% of the coverage from the proposed facility is outside the town. The ordinance requires an applicant to pay an independent consultant, hired by the town, to conduct annual RF emissions testing and monitoring.

- A Yorba Linda, California ordinance imposing a city-wide height restriction of 35 feet. Any proposal for a tower over that height would require a vote of the people to approve the tower.

- A Marlboro Township, New Jersey ordinance requiring a 500-foot set back for towers in a residential zone plus a 150% fall zone requirement.

- Several New Jersey ordinances, including Toms River, New Jersey, where the ordinances do not include a provision allowing wireless communications facilities anywhere. As a result, a variance is required in each of these locations. Variances generally require more than just a simple majority of the zoning board to approve the site (for example 5 out of 7 members must approve). One site in Toms River received only 4 of the required 7 votes to adopt the variance and has been pending since 2006, with over 18 public hearings, and two court appearances.

- A Faquier County, Virginia ordinance that requires any facility that is over 80 feet tall and not a collocation to go through a special exception process
- A Billerica, Massachusetts ordinance requiring a new Special Permit to change antennas on an existing structure.

As these examples, and hundreds others like them, demonstrate, local communities are increasingly adopting zoning ordinances designed to make siting wireless communications towers more difficult and, in some cases, impossible.

Recently, the United States Court of Appeals for the 9th Circuit reversed its own interpretation of Section 253(a) and joined the 8th Circuit in holding that "a plaintiff suing a municipality under Section 253(a) must show actual or effective prohibition, rather than the mere possibility of prohibition."[20] While the Court reasoned that reversal of its previous decision was necessary to correct an overly broad reading of Section 253(a), its new interpretation is overly narrow in that the Court has effectively read the word "may" out of the statute. Thus, in holding that a plaintiff must show actual or effective prohibition, the Court has eliminated challenges to an ordinance which, on its face, *may* prohibit or have the effect of prohibiting telecommunications service.

As the Court noted in its decision, the 9th Circuit had previously held, and other courts have held, that Section 253(a) reaches state or local statutes or regulation that may have the effect of prohibiting the ability of any entity to provide telecommunications services.[21] Because the law interpreting Section 253(a) is far from settled, the Commission should take this opportunity to declare that zoning ordinances that *may* have the effect of prohibiting the ability of any entity to provide telecommunications services

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[20] Sprint Telephony PCS v. County of San Diego, Slip. Op. at 12711.

[21] *Id.* at 12709-12711.

are preempted. Rather than require case-by-case adjudication of each and every ordinance, the Commission should declare, as CTIA requested, that any ordinance that automatically requires a wireless carrier to seek a variance is preempted as an impermissible barrier to entry under Section 253(a) of the Act.

III. CONCLUSION

The Commission should grant CTIA's request for declaratory ruling. Ambiguities in the Communications Act have allowed many state and local zoning authorities to take unreasonably long periods of time to approve zoning requests, to deny applications where another service provider already serves an area, and to adopt zoning ordinances which prohibit or have the effect of prohibiting telecommunications services. In order to speed the wireless facilities siting process, the Commission should declare time periods within which state or local zoning authorities must take action on wireless facilities requests under Section 332(c)(7)(B) of the Act; clarify that Section 332(c)(7)(B)(i) of the Act bars zoning decisions that have the effect of prohibiting an additional entrant from offering service in a given area; and preempt zoning ordinances and state laws that treat every wireless siting application as requiring a variance.

Respectfully submitted,

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Dated: September 29, 2008

Certificate of Service

I hereby certify that on this 29th day of September, a copy of the foregoing "Comments of Verizon Wireless" in WT Docket 08-165 were sent by US mail or electronic mail to the following parties:

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